

PATENT  
09/995,419  
Docket 096/004p

REMARKS

Entry of the claim amendments does not introduce new matter into the disclosure. Support for the new claims may be found throughout the specification and claims as originally filed.

Claim 14 is amended to indicate explicitly that the cells have been genetically altered (within the meaning defined on page 10) to contain the nucleic acid molecule comprising the structure P-X. The polynucleotide is not endogenous to the cell, in the sense that the polynucleotide does not exist in such cells as obtained from natural sources, but has been introduced by the hand of man.

Traverse of Restriction Requirement

Claims 1-22 are pending in this application, and subject to a Restriction Requirement under 35 USC § 121 between claims in five groups. The Office Action indicates that claims 1-15 are drawn to methods of depleting undifferentiated stem cells from a cell population. In fact, claim 14 and some of its dependents do not require (although they may include) the act of depleting undifferentiated cells. The depletion is referred to in claim 15 as something that occurs in addition to the steps explicitly required in claim 14.

Applicant respectfully traverses the restriction requirement between Groups I and III. Group I includes methods in which undifferentiated cells are depleted by binding to a ligand and subsequently separating the cells (Claim 4). Group III covers methods in which undifferentiated cells are depleted by combining with antibody plus complement to cause lysis of the cells (Claim 5). Claim 15 is a generic claim that links these two groups by simply referring in a generic fashion to the depleting of undifferentiated cells using a specific ligand. Reconsideration and withdrawal of the restriction between Groups I and III is respectfully requested.

Election of Group for Examination

Group III (Claims 1-3 and 5-15 as amended) is hereby elected for examination on the merits.

Should the Examiner determine that further restriction of the invention is required, applicant hereby elects Claim 14 for examination, along with any other claims falling within the same group.

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Election of Species for Examination

Should the Examiner determine that restriction between species in Group III is required, applicant makes the following election. Amongst species of surface antigens: heterologous cell surface receptor, glycosyltransferases exemplified by  $\alpha(1,3)$ galactosyltransferase, A transferase, and B transferase, and other antigens supported by the specification: applicant hereby elects  $\alpha(1,3)$ galactosyltransferase. This election is made without traverse.

Request for Rejoinder:

Should a restriction be made between the subject matter of Claim 4 and Claim 5, applicant hereby requests that both claims be rejoined into the group under examination upon determination that the claims linking these two groups (Claims 14 and 15) is patentable.

Claim 14 recites a cell surface antigen, which is generic to the species of antigen from which  $\alpha(1,3)$ galactosyltransferase has been elected. Upon determination that claim 14 is allowable, applicant requests that the other species of cell surface antigens be rejoined into the group under examination, pursuant to 37 CFR § 1.141.

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Conclusion

Applicants respectfully request that the application proceed to examination on the merits, in view of the amendment and remarks made herein.

In the event the Examiner determines that an interview would facilitate prosecution of this application, he is invited to contact applicant's representative at the telephone number indicated below.

Should the Patent Office determine that an extension of time or any other relief is required for further consideration of this application, applicant hereby petitions for such relief, and authorizes the Assistant Commissioner to charge the cost of such petitions and other fees due in connection with the filing of these papers to Deposit Account No. 07-1139, referencing the docket number indicated above.

Respectfully submitted,



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